

**Introduced by Senator Lowenthal**

December 1, 2008

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An act to amend Section 19611 of, and to add Sections 17058.6 and 23610.6 to, the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 16, as introduced, Lowenthal. Low-income housing tax credits.

Existing law establishes a low-income housing tax credit program, administered by the California Tax Credit Allocation Committee, which provides procedures and requirements for the allocation of state tax credit amounts among low-income housing projects based on federal law.

This bill would, in the case of a project that has received or receives preliminary reservation of state low-income housing tax credit on or after July 1, 2008, and before January 1, 2010, allow the credit to be refundable, and make an appropriation therefor, as provided.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 17058.6 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 17058.6. (a) (1) For purposes of Section 17058, in the case
- 4 of a project that has received or receives a preliminary reservation

1 of state low-income housing tax credit on or after July 1, 2008,  
2 and before January 1, 2010, and the amount allowable as a credit  
3 under Section 17058 exceeds the tax liability computed under this  
4 part, the excess shall be credited against other amounts due, if any,  
5 and the balance, if any, shall be refunded to the taxpayer.

6 (2) For purposes of applying paragraph (1), Section 17039 shall  
7 be applied by first reducing the “net tax” to the extent allowed  
8 under that section by any other credits, and then any remaining  
9 “net tax” shall first be offset by the amount described in paragraph  
10 (1) and any remaining amount described in paragraph (1) shall  
11 then be refunded to the taxpayer.

12 (b) This section shall not apply to any state low-income housing  
13 credit reservation for which financial closing occurs on or after  
14 July 1, 2008, and before December 31, 2008.

15 SEC. 2. Section 19611 of the Revenue and Taxation Code is  
16 amended to read:

17 19611. (a) The Tax Relief and Refund Account is hereby  
18 created in the General Fund. Notwithstanding Section 13340 of  
19 the Government Code, all moneys in the Tax Relief and Refund  
20 Account are hereby continuously appropriated, without regard to  
21 fiscal year, to the Franchise Tax Board for purposes of making all  
22 payments as provided in this section.

23 (b) Notwithstanding any other ~~provision of~~ law, all payments  
24 required to be made to taxpayers or other persons from the Personal  
25 Income Tax Fund shall be paid from the Tax Relief and Refund  
26 Account.

27 (c) The Controller shall transfer, as needed, to the Tax Relief  
28 and Refund Account:

29 (1) From the unexpended balance of the annual Budget Act  
30 appropriation for Item 9100-101-001, Schedule 80-Renter’s Tax  
31 Relief, an amount determined by the Franchise Tax Board to be  
32 equivalent to the total amount of renters’ assistance credits and  
33 refunds allowed under Section 17053.5.

34 (A) If there is no unexpended balance of the appropriation, as  
35 provided for in paragraph (1), the Controller shall transfer sufficient  
36 moneys from the Personal Income Tax Fund to make the renters’  
37 assistance credits and refunds until there is an unexpended balance.

38 (B) Subsequent to there being no unexpended balance of the  
39 appropriation, as provided for in paragraph (1), and there being a  
40 transfer of moneys from the Personal Income Tax Fund to make

1 the renters' assistance credits and refunds, reimbursement shall be  
2 made from the unexpended balance of the appropriation as provided  
3 for in paragraph (1) to the Personal Income Tax Fund. However,  
4 if no such appropriation is subsequently made, reimbursement  
5 shall be made from the General Fund.

6 (2) From the disability fund, the amount transferable to the  
7 General Fund pursuant to subdivision (a) of Section 1176.5 of the  
8 Unemployment Insurance Code.

9 (3) From the Personal Income Tax Fund, ~~such~~ *those* additional  
10 amounts as determined by the Franchise Tax Board to be necessary  
11 to make the payments required under this section.

12 (4) *From the Personal Income Tax Fund, those amounts as*  
13 *determined by the Franchise Tax Board to be necessary to make*  
14 *the refunds required under Section 17058.6.*

15 (5) *From the Corporation Income Tax Fund, those amounts as*  
16 *determined by the Franchise Tax Board to be necessary to make*  
17 *the refunds required under Section 23610.6.*

18 SEC. 3. Section 23610.6 is added to the Revenue and Taxation  
19 Code, to read:

20 23610.6. (a) (1) For purposes of Section 23610.5, in the case  
21 of a project that has received or receives a preliminary reservation  
22 of state low-income housing tax credit on or after July 1, 2008,  
23 and before January 1, 2010, and the amount allowable as a credit  
24 under Section 23610.5 exceeds the tax liability computed under  
25 this part, the excess shall be credited against other amounts due,  
26 if any, and the balance, if any, shall be refunded to the taxpayer.

27 (2) For purposes of applying paragraph (1), Section 23036 shall  
28 be applied by first reducing the "tax" to the extent allowed under  
29 that section by any other credits, and then any remaining "tax"  
30 shall first be offset by the amount described in paragraph (1) and  
31 any remaining amount described in paragraph (1) shall then be  
32 refunded to the taxpayer.

33 (b) This section shall not apply to any state low-income housing  
34 credit reservation for which financial closing occurs on or after  
35 July 1, 2008, and before December 31, 2008.

36 SEC. 4. This act is an urgency statute necessary for the  
37 immediate preservation of the public peace, health, or safety within  
38 the meaning of Article IV of the Constitution and shall go into  
39 immediate effect. The facts constituting the necessity are:

1 The state low-income housing tax credit is a critical source of  
2 funding for the development of affordable rental housing. Because  
3 of the financial downturn and the disruption to global capital  
4 markets, the ability of affordable housing developers, who have  
5 been awarded credits to obtain private equity investment in return  
6 for the credits, has decreased precipitously and, in some cases,  
7 disappeared altogether. Some developers have been forced to return  
8 tax credit awards unused, others are struggling to arrange investors,  
9 and those projects that have found investors have had to seek  
10 additional public funding to offset the decline in pricing and to  
11 maintain the financial feasibility of projects, severely jeopardizing  
12 the state's goal of providing decent, safe, and sanitary housing for  
13 all Californians. An immediate and short-term change to make  
14 state low-income housing tax credits refundable will entice  
15 investors back into affordable housing until global financial  
16 markets stabilize.